IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2007

CORAM:

THE HON'BLE MR.JUSTICE P.SATHASIVAM

AND

THE HON'BLE MR.JUSTICE N.PAUL VASANTHAKUMAR

W.A.NO.2050 OF 2003

AND

WA.MP.2873 OF 2003

A.Shanmugam ..Appellant

Vs.

1. The District Collector,
   Erode District, Erode.

2. The Revenue Divisional officer,
   Dharapuram,Erode District.

3. The Tahsildar,
   Tahsildar Office,
   Dharapuram, Erode District. ... Respondents

Writ Appeal filed against the order of this Court in W.P.No.13972 of 2003 dated 30.4.2003 under Article 226 of the Constitution of India to issue writ of Mandamus forbearing the Respondents from evicting the petitioner from his house and land located at Door No.96 new No.506/1, Pullakovilkalam, Seethakadu, Alangiam Road, Dharapuram Taluk and Comprised in S.F.No.232/2 Pullakovilkalam of Dharapuram South Village except by due process of law.

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For Appellant: Mr.D.Krishnakumar
For Mr.V.N.Mohanram

Fro Respondents: Mr.K.Elango
Special Government Pleader

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JUDGMENT

(Judgment of the Court was delivered by P.SATHASIVAM,J)

The above writ appeal is directed against the order of the learned Single Judge dated 30.4.2003 made in W.P.No.13972 of 2003, in and by which, the learned Single Judge, after finding no merit, dismissed the writ petition.

2. Heard the learned counsel appearing for the appellant as well as learned Special Government Pleader appearing for respondents.

3. According to the petitioner/appellant, he along with his family members residing in the house located at Old Door No.96, New No.506/1, Pullakovilkalam, Seethakadu, Alangiam Road, Dharapuram Taluk, comprised in S.F.No.232/2 of Pullakovilkalam, Dharapuram South Village, Dharapuram Taluk. It is also stated that they have been residing in the said land/house for the past 15 years by paying Property tax and Electricity charges, though the above said land is classified as a Poromboke in the Revenue Records. Since the second and third respondents threatened them to evict from the said land, the petitioner/appellant herein filed W.P.No.13972 of 2003 for appropriate relief.

4. Learned Single Judge, after finding that there is no need to follow the principles of natural justice and such procedure is not an automatic one, dismissed the writ petition.

5. Learned counsel appearing for the appellant has brought to our notice that in view of the fact that the petitioner/appellant and his family members are residing there for 15 years, though the respondents are entitled to evict them, they have to follow due process of law by issuing notice under the provisions of the Tamil Nadu Land Encroachment Act, 1905. The said ground has been specifically taken in paragraph 8(F).

6. Under such circumstances, we are not able to accept the conclusion arrived at by the learned Single Judge. Accordingly, the same is set aside. It is made clear that it is open to the respondents to follow the procedure provided under the Tamil Nadu Land Encroachment Act and take appropriate action, if so desired and warranted at this juncture.

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7. With the above observation, the writ appeal is allowed. No costs. Consequently, WA.Mp.No.2873 of 2003 is closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

VJY

To

1. The District Collector,
   Erode District, Erode.

2. The Revenue Divisional officer,
   Dharapuram,Erode District.

3. The Tahsildar,
   Tahsildar Office,
   Dharapuram, Erode District.

1 cc to the Government Pleader, SR. 13873
1 cc to Mr.V.N.Mohanraj, Advocate, Sr. 13775

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WA.MP.NO.2873 OF 2003

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